

Bald Eagle Protection in Washington State

Bald eagles are protected by both state and federal law. This document covers Washington state law, which addresses bald eagle habitat protection. Federal law, which addresses both nest tree protection and protection from disturbance, is discussed in the Harm or Harassment of Eagles section, below. In July 2007, the bald eagle was removed from protection under the federal Endangered Species Act. However, two other federal laws still provide protection for the bald eagle, the [Bald and Golden Eagle Protection Act](#) and the [Migratory Bird Treaty Act](#). These laws primarily address nest tree protection and protection from harassment. Federal laws and regulations come into play when a federal permit is required (such as a dock permit from the Army Corps of Engineers), or when a federal crime, such as harm to an individual eagle or nest, is suspected. The federal delisting is expected to be followed by state downlisting. However, bald eagles will remain protected under other state and federal laws.

Bald eagle habitat protection in Washington State is authorized by the Bald Eagle Protection Law of 1984, [RCW 77.12.655](#). This law requires the establishment and enforcement of rules for buffer zones around bald eagle nest and roost sites. The law states that the rules shall take into account the need for variation of the extent of the zone from case to case. A group of stakeholders developed the Bald Eagle Protection Rule, [WAC 232-12-292](#), and it was adopted by the Washington State Wildlife Commission in 1986. The primary focus of the Bald Eagle Protection Rule is to protect habitat via site management plans.

Bald Eagle Management Plans

A Bald Eagle Management Plan (BEMP) is a habitat protection agreement between Washington State Department of Fish and Wildlife (WDFW) and the landowner ensuring minimal impact on bald eagles and reasonable land use for the owner.

Prior to most property improvement or other land use, a permit application must be submitted to the appropriate agency. Washington Dept. of Natural Resources (DNR) reviews all proposed timber and mining proposals, and county permitting departments handle clearing, storm water and shoreline, septic and building permits, etc. If you are not sure about the need for a permit, it is best to ask beforehand. Delays and penalties can be costly. If the activity is near an eagle nest or roost (discussed below), the permitting agency works with WDFW and the landowner to develop a Bald Eagle Management Plan (see [WAC 232-12-292](#), section 4.4). This plan will not prevent the landowner from reasonable use of the property, but it will ensure that development will have the least impact possible on the eagles and their habitat. There are no specific requirements established by the enabling language of the rule, but to ensure consistency across landowners, WDFW has established basic guidelines. WDFW has described the scientific basis for bald eagle site management in the [Priority Habitat & Species Management Recommendations for the Bald Eagle](#). Management Guidelines are used by WDFW biologists in developing bald eagle management plans and ensure that fair and even treatment is extended to all landowners. The bald eagle management plan guidelines have changed significantly since the bald eagle management planning process was begun in 1986. These changes reflect the increasing population of eagles, the apparent increasing tolerance of eagles in urbanizing areas, and WDFW's interest in accommodating landowner goals and reducing landowner burdens while minimizing impacts on critical eagle habitat. The guidelines discussed below were developed in 2001.

Please be aware that activity on federal land, or involving a permit from a federal agency such as the Army Corps of Engineers, requires approval from the U.S. Fish & Wildlife Service. Contact your federal permit reviewer for guidance.

The Standard Bald Eagle Management Plan

For activities that are within 800 ft of an eagle nest, but not within 400 ft of the eagle nest, and for activities that are within 250 ft of the shoreline or its adjacent bank and within ½ mile of an eagle nest, but not within 400 ft of an eagle nest, the following basic conditions are applied. See diagram below.

1. Retain all known perch trees and all conifers greater than or equal to 24 inches diameter at breast height (24" dbh, measured at 4 ½ ft above the ground).
2. Retain all cottonwoods greater than or equal to 20" dbh, in counties where cottonwood nests occur.

This document was prepared in November 2005 as a general response to frequently asked questions by Julie Stofel, WDFW Endangered Species Biologist, Region 4 (Northwest Washington). It was revised and updated in 2007 and 2008 by Elizabeth Rodrick, WDFW Bald Eagle Management Coordinator, and Gretchen Blatz, WDFW Wildlife Data Management Biologist

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3. Retain at least 50% of pre-clearing or pre-construction conifer stand with diameter distributions representative of the original stand (>6 feet tall).
4. Windowing and low limbing of trees is acceptable provided no more than 30% of the live crown is removed. Topping of trees is not allowed.

The conditions listed above are part of what is called the "Standard Short Plan". It is pre-approved by WDFW for activities that do not require a DNR permit (forest practice application). It is available from the county or city permit desk for parcels and activities that meet the distance definitions. No site visit by WDFW is necessary in these cases. There is no cost for the Standard Short Plan.

The Site-Specific Bald Eagle Management Plan

For activities that are within 400 ft of an eagle nest, a site-specific plan is required. Any landowner who feels that the conditions of the Standard Short Plan cannot be met may request a site-specific plan. A site-specific plan is also required for any forest practice activity that is within ½ mile of an eagle nest (but see "No Conditions Plan", below). A site-specific plan is also required for any activity within ¼ mile of a bald eagle communal roost. There is no cost for a WDFW prepared plan, but it is more time consuming to obtain. Typically, a site-specific plan can be obtained in 2-6 weeks, depending on the complexity. Landowners may hire a qualified consultant at their own expense to prepare a bald eagle management plan for WDFW approval. While this is not necessary in most cases, it can help save time by ensuring that all the necessary documents are complete. To request a site-specific bald eagle management plan, provide the following information to the WDFW [bald eagle biologist](#) for your area:

1. Landowner name, mailing address, telephone number, and email address
2. Requestor's name, mailing address, telephone number, and email address (if different from above)
3. County in which the activity will occur
4. Parcel number
5. Site address of parcel (if available)
6. Parcel map (available from county) or Forest Practice Base Map (available from DNR) showing the parcel/activity area and the Township, Range, Section, and Quarter Section
7. A site map showing the activity:
 - a. Forest Practice Activities: the timber harvest boundary and buffer boundaries must be marked, with the location of the eagle nest shown.
 - b. Subdivisions and short plats: include the plat map and show the location of the eagle nest, and the location of currently forested areas.
 - c. Building Permits (and related permits, like clearing and grading and septic): show the location of the eagle nest, and the locations of conifer trees greater than or equal to 24" dbh that will be affected by the activity. Also show the locations of conifer trees greater than or equal to 24" dbh that will be protected and retained. Show the proposed locations of house, driveway, garage, septic, and any other clearing activity

Note: For site-specific information, contact the WDFW bald eagle biologist for your area.

Once the biologist has received the above information, you may be contacted to arrange a site visit. A site visit may be required for activities within 400 ft of a nest site.

The "No Conditions" Bald Eagle Management Plan

Forest Practice Rules (WAC [222-16-080](#) 6e) require a bald eagle management plan for activities within ½ mile of and eagle nests or ¼ mile of an eagle roost. In many cases, however, WDFW does not require conditions, because the activity is not within 250 ft of the shoreline and is not within 800 ft of the nest. In these cases, WDFW provides the landowner with a plan that explains why no conditions are needed.

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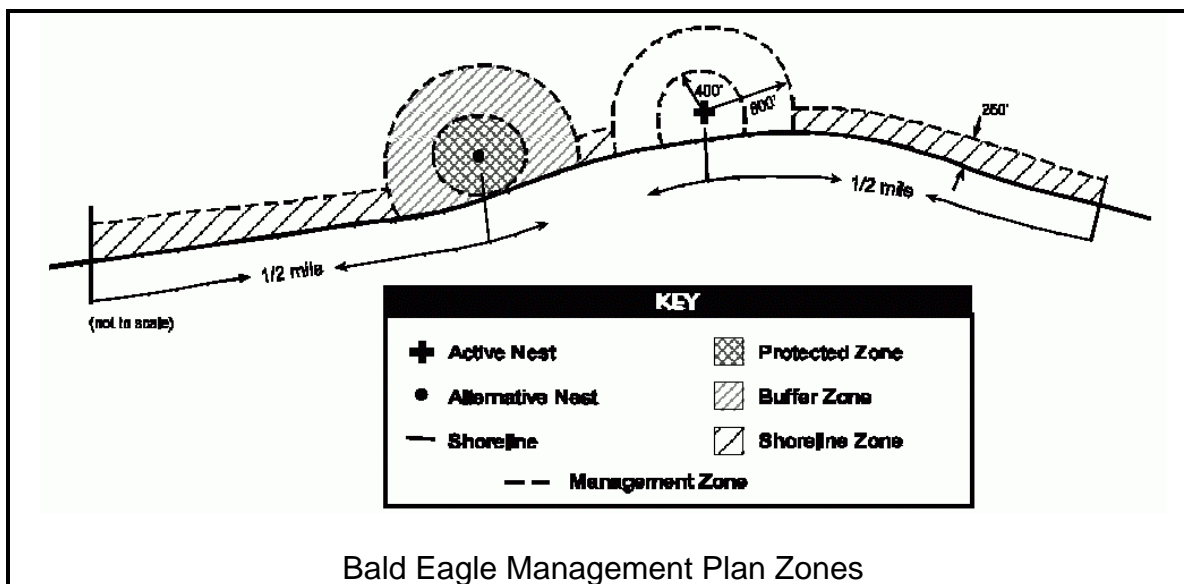
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The Communal Roost Bald Eagle Management Plan

Bald eagle communal night roosts are important winter habitat. Eagles use night roosts as protection from inclement weather and temperature extremes. Night roosts may also serve important social functions. Winter night roosts are generally associated with large, salmon-bearing rivers, although there are some associated with coastal foraging areas. Night roosts are usually on forested slopes, up to 5 miles from the feeding areas. The combination of topography and trees provides the microclimate that is important to roosting eagles. For the purpose of inclusion in the WDFW database of protected sites, a roost is defined as a tree or a group of trees in which at least 3 eagles roost for at least 2 nights and during more than one year. The definition refers to at least 3 eagles to differentiate the communal roost from a perch used by a territorial pair of eagles. Site-specific Bald Eagle Management Plans are required for activities within ¼ mile of communal night roosts. Activities within ¼ mile of eagle roosts are restricted in the winter, generally from Nov 1 to Feb 15, although this may be modified (shortened) for roosts with known activity periods that do not extend through the entire winter season. Leave tree buffers are also required, although the buffer distance varies with the conditions of the site. Timber harvest within communal night roosts is not permitted.

How Do I Find Out What Kind of Plan I Need?

Your county planning or permit desk can tell you whether you need a bald eagle management plan and if you are eligible to use the Standard Plan. The Department of Natural Resources will direct you to the WDFW bald eagle biologist for your area. In all cases, you can request a site-specific bald eagle plan from the WDFW bald eagle biologist for your area.



Management Plan Zones are defined by distance from a bald eagle active nest tree:

- Within 400' (Requires a Site-Specific BEMP from WDFW)
- From 400' to 800' (Eligible for a Standard 1-Page WDFW BEMP)
- Shoreline Zone: within 250 ft of shoreline if also within ½ mile of a nest. (Eligible for a Standard 1-Page WDFW BEMP)

How Long Are Eagle Management Plans Good For?

Each year bald eagles return to the same area, known as a breeding territory. In many cases, there are several nests per territory, only one of which will be occupied at a given time. Territories are generally

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occupied year after year, although it is not unusual for a territory to be unoccupied for one or several years at a time. Sometimes, nests that have not been used for many years are reoccupied by a new pair of eagles that take over part of another pair's territory. The most extreme example known from Washington was a nest that was unoccupied for 12 years before a new pair moved in to take over the north part of the resident pair's territory. Examples such as these demonstrate why it is important to maintain large trees capable of supporting nests, in order to provide for the species as a whole. Nest structures may blow or fall out of a tree, or even be dismantled by energetic chicks, but as long as the tree is capable of supporting a new nest, the tree is protected as a nest site. Individual nest sites within a territory are removed from the list of protected sites only if the tree falls naturally or breaks in such a way as to prevent new nest construction.

A Bald Eagle Management Plan constitutes an agreement by the landowner to protect the eagle habitat on their property. The plan remains in effect indefinitely. However, a change of ownership or a request for a new activity may lead to a new bald eagle plan. If a landowner believes that the site is no longer capable of supporting bald eagles, the landowner can also request a review by WDFW to determine if the bald eagle plan is still needed. This is determined by reviewing the history of the site, as well as the physical state of the habitat. In general, WDFW uses a guideline of 5 consecutive years of absence throughout the whole territory (not just at a single nest site) to determine whether a site is truly "not active".

As of 1998, WDFW no longer conducts annual nest surveys. The last complete statewide survey was conducted in 2005. Sampling surveys will be conducted at 5-year intervals for the next 20 years to comply with federal monitoring requirements under the Endangered Species Act, but annual surveys are no longer conducted. Therefore, documenting absence for a period of 5 years will become the responsibility of the landowner making the request.

Timing of Logging or Construction

The Bald Eagle Management Plan is focused on maintaining habitat (nest trees, perch trees, and associated screening trees). As of December 2001, WDFW recommends but does not require that construction or logging activities take place during the least sensitive times periods for eagles, July 15 – January 31.

Eagles are most sensitive to disturbance Feb 1 - April 15. They are establishing territories and beginning incubation at this time. The chicks typically hatch in mid to late April. Once the chicks have hatched, the adults are less likely to abandon as a result of disturbance. The chicks are able to keep themselves warm and feed themselves by late April to early May, so are more easily able to survive periods when the adult is off the nest due to temporary disturbance. The young typically fledge (leave the nest) in mid July. At that time, just before fledging, they are vulnerable and can be frightened off the nest before they are able to fly. When conducting activities that are noisy or that involve people within 400 feet of a nest tree, landowners should take the following approximate schedule into account as much as possible: Feb 1 - May 1, more sensitive; May 1-July 1, less sensitive; July 1-July 15, more sensitive; July 15 - Jan 31, least sensitive.

Harm or Harassment of Eagles

Harm and harassment of eagles is prohibited by law. The relevant State law is [RCW 77.15.130](#) (regarding harm of protected wildlife). The relevant Federal laws are: [USC Title 16 Chapter 5A Subchapter II Section 668](#) Bald and Golden Eagle Protection Act, and the Migratory Bird Treaty Act ([USC Title 16 Chapter 7 Subchapter II Section 703](#)). If harm or harassment of eagles is suspected, please call [Washington State Patrol](#) and ask to have a wildlife enforcement officer dispatched. In addition, failure to comply with the Bald Eagle Habitat Protection Rule (WAC 232-12-292) may constitute harm to eagles under RCW 77.15.130 (b).

What About Other Species?

Red-tailed hawks and ospreys are two other species that build large nests in trees. Ospreys also commonly nest on cell phone towers, power poles, and on marine structures like "dolphins" (a group of pilings used for mooring). Great blue herons build medium-sized stick nests in trees, often in groups or colonies. Crows build medium sized stick nests, but they do not nest in colonies like herons. All birds, (except game birds and the following species which are considered nuisance species: starlings, and English sparrows), are protected by state law ([WAC 232-12-011](#)). Nests and eggs of protected species are protected from malicious harm under [RCW 77.15.130](#). Contact your local WDFW biologist to determine whether a nest is active, the species at the nest, and the best methods by which to ensure habitat protection while initiating development near such a nest. Generally, human activity can coexist with nesting wildlife. In rare cases, such as osprey nesting on equipment, the nest may be incompatible with safety or operation of the

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equipment. In those cases, arrangements can be made with WDFW to determine the best time and method of removal.

Web Links

Federal Endangered Species Act

<http://www.fws.gov/laws/lawsdigest/ESACT.HTML>

Washington State Status Report for the Bald Eagle

http://wdfw.wa.gov/wlm/diversty/soc/status/baldeagle/baldeagle_status07.pdf

RCW 77.12.655 - Habitat buffer zones for bald eagles -- Rules.

www.leg.wa.gov/RCW/index.cfm?section=77.12.655&fuseaction=section

WAC 232-12-292 - Bald eagle protection rules.

www.leg.wa.gov/wac/index.cfm?fuseaction=Section&Section=232-12-292

WDFW: PHS Management Recommendations for the Bald Eagle

wdfw.wa.gov/hab/phs/vol4/baldeagle.pdf

WAC 222-16-080 Forest Practices requiring Bald Eagle Management

www.leg.wa.gov/wac/index.cfm?fuseaction=Section&Section=222-16-080

RCW 77.15.130 Protected fish or wildlife - Unlawful taking - Penalty.

www.leg.wa.gov/RCW/index.cfm?section=77.15.130&fuseaction=section

USC Title 16 Chapter 5A Subchapter II Section 668

(Federal Bald and Golden Eagle Protection Act)

www4.law.cornell.edu/uscode/html/uscode16/usc_sup_01_16_10_5A_20_II.html

USC Title 16 Chapter 35 Section 1538

(Endangered Species Act definition for "take")

uscode.house.gov/download/pls/16C62.txt

USC Title 16 Chapter 7 Subchapter II

(U.S. Migratory Bird Treaty Act)

www4.law.cornell.edu/uscode/html/uscode16/usc_sup_01_16_10_7_20_II.html

USC Title 16 Chapter 53

(The Lacey Act)

http://www4.law.cornell.edu/uscode/html/uscode16/usc_sup_01_16_10_53.html

National Bald Eagle Management Guidelines

<http://www.fws.gov/migratorybirds/issues/BaldEagle/NationalBaldEagleManagementGuidelines.pdf>

Additional Information

Washington State Department of Fish and Wildlife (WDFW homepage)

wdfw.wa.gov/

U. S. Fish & Wildlife Service (USFWS) Endangered Species Information

www.fws.gov/endangered/wildlife.html

USFWS Species Profile for the Bald Eagle

ecos.fws.gov/species_profile/servlet/gov.doi.species_profile.servlets.SpeciesProfile?spcode=B008

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